



United Nations

Division for Social Policy Development (DSPD)
Department of Economic and Social Affairs (DESA)



Toolkit on
DISABILITY for **AFRICA**

**INTRODUCING THE UNITED NATIONS
CONVENTION ON THE RIGHTS OF
PERSONS WITH DISABILITIES**

Toolkit on disability for AFRICA



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CONVENTION ON THE RIGHTS OF PERSONS
WITH DISABILITIES**

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List of acronyms

AT	Assistive Technology
CEDAW	Committee on the Elimination of Discrimination against Women
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
CRPD	Convention on the Rights of Persons with Disabilities
CRPD	Committee on the Rights of Persons with Disabilities
CRC	Committee on the Rights of the Child
CRC	Convention on the Rights of the Child
CRC	Convention on the Rights of the Child
DFIs	Development Financing Institutions
DPOs	Disabled Persons Organizations
DSPD	Division for Social Policy and Development/UNDESA
EC	European Commission
G3ICT	Global Initiative for Inclusive ICTs
HIV/AIDS	Human Immunodeficiency virus / Acquired Immunodeficiency Syndrome
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic and Cultural Rights
ICF	International Classification of Function, The World Health Organization
ICT	Information and Communication Technology
ILO	International Labour Organization
ITCILO	International Training Centre of the ILO
IPU	Inter-Parliamentary Union
ITC	Information and Communication Technology
ITU	International Telecommunication Union
MDGs	Millennium Development Goals
MFI	Microfinance institutions
MSPs	Multi-stakeholder Partnerships
NAPs	National Action Plans
NGO	Non-Governmental Organization
NVDA	Non Visual Desktop Access
OHCHR	Office of the High Commissioner for Human Rights
OSISA	Open Society Initiative for Southern Africa

PCM	Project Cycle Management
PRP	Protracted Relief Programme
SABE	Self-Advocates Becoming Empowered
SDGs	Sustainable Development Goals
UDHR	Universal Declaration of Human Rights
UN	United Nations
UN DESA	United Nations Department of Economic and Social Affairs
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDP	United Nations Development Fund
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development
VOCA	Voice Output Communication Aids
WHO	World Health Organization



1. OVERVIEW

This module introduces the Convention on the Rights of Persons with Disabilities (CRPD) as a paradigm-setting instrument in the African region. The CRPD requires a shift from traditional ways of looking at disability as individual impairment to a focus on state obligations to creating enabling environments that promote inclusiveness and accommodate all human beings in their diversity.

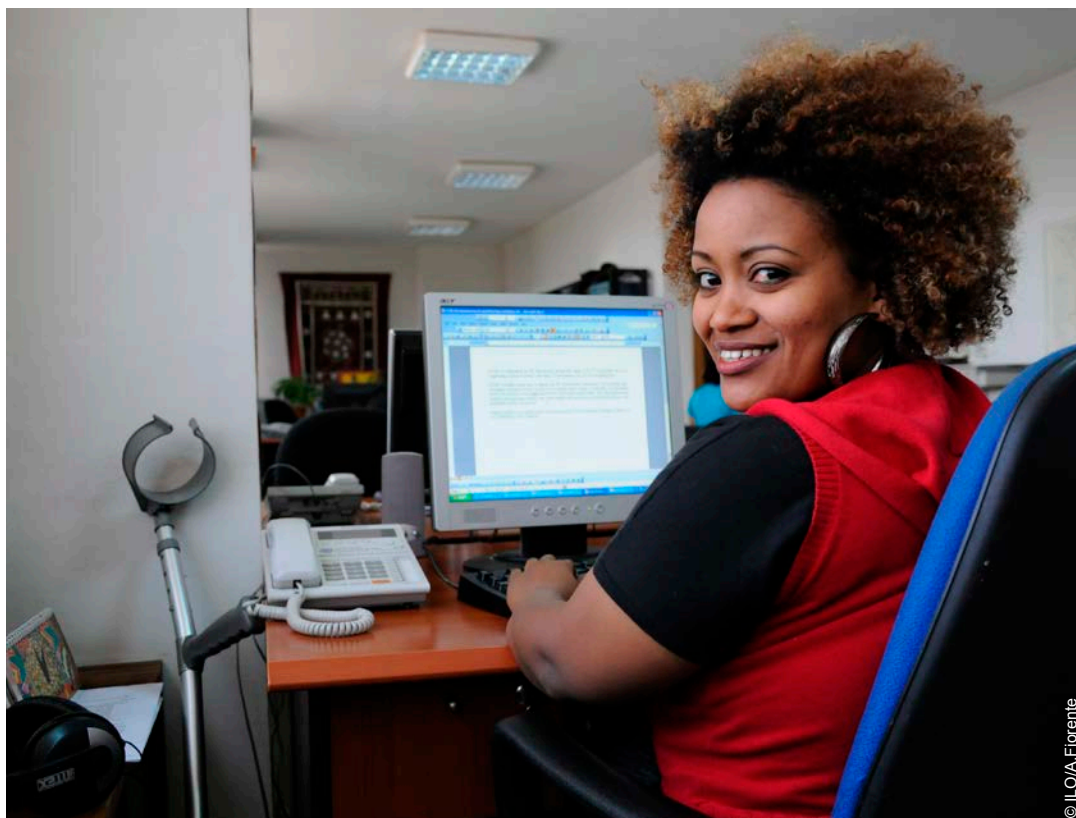
The overview provides information on the objectives, the target audience, the module content, learning outcomes and the module map.

Module objectives

- ▶ To introduce the UN Convention on the Rights of Persons with Disabilities (CRPD).
- ▶ To consider how disability is conceptualized in the CRPD and its approach to inclusive development and protecting the human rights of persons with disabilities in the African context.

Who is this module for?

This module is relevant to everyone with an interest in disability or a responsibility for addressing disability issues owing to the nature of their work, including persons with or without disabilities working in civil society, law enforcement, civil and public service, national human rights institutions, parliamentarians, development agencies, universities and the private sector.



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What is this module about?

The content of this module:

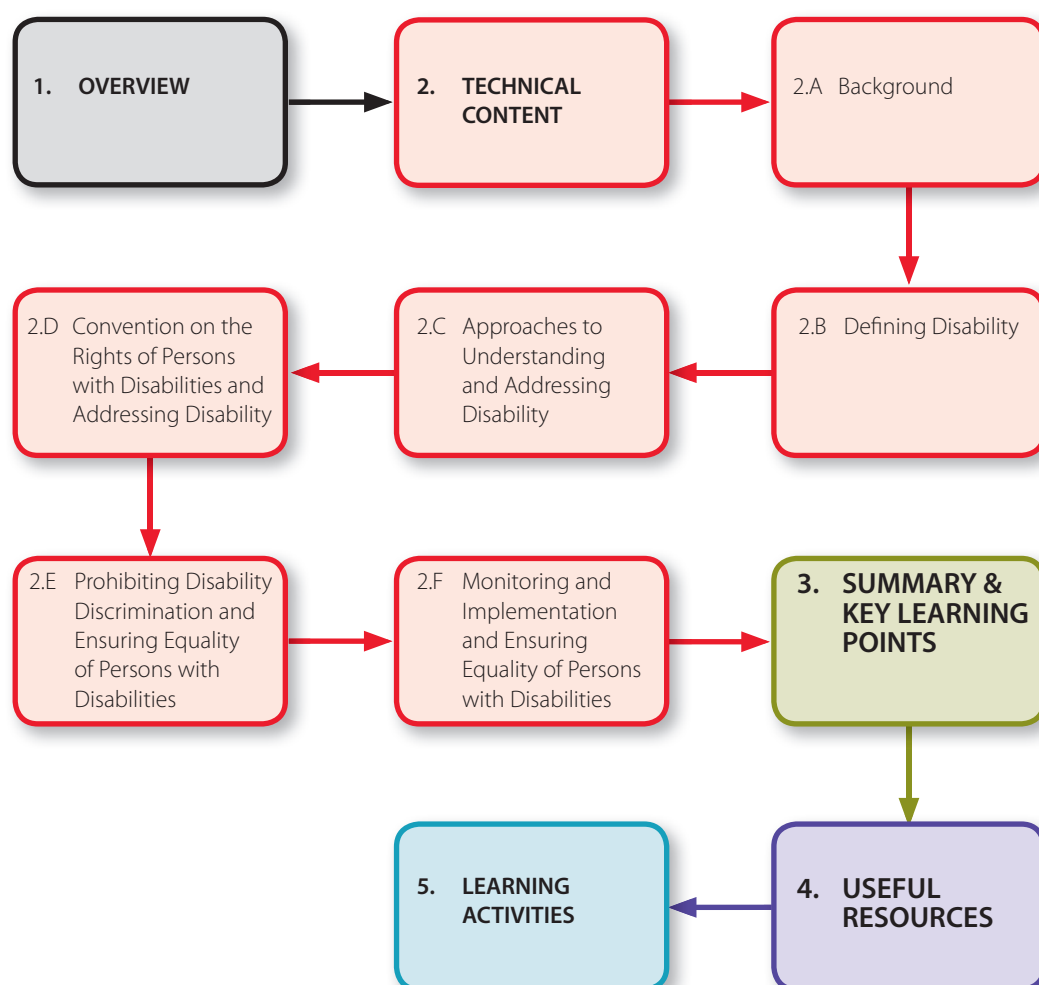
- ▶ Provides a background on the situation of persons with disabilities in relation to human rights and development;
- ▶ Explores how the Convention on the Rights of Persons with Disabilities (CRPD) considers disability;
- ▶ Explains the evolution of approaches to addressing disability, from charity and medical models to social and human rights models;
- ▶ Reviews the CRPD, including its purpose, structure, and key concepts;
- ▶ Includes learning exercises to accompany the material; and
- ▶ Lists useful resources for additional reference.

Learning objectives

On completion of this module, participants will have:

1. Discussed disability in an African development context.
2. Contextualised the CRPD as a human rights instrument in Africa.
3. Identified key concepts of the CRPD in context.

Module map





2. TECHNICAL CONTENT

2.A Background

Disability is part of the human condition.¹ Globally over 1 billion persons, or 15 percent of the world's population, live with some form of disability.² When the family members of persons with disabilities are taken into account, an even greater number of people are affected by disability. As a result of global trends in population ageing and an increase in chronic health conditions, the incidence of impairment and disability among the general population is expected to increase.

Although persons with disabilities are often said to constitute the world's largest minority, in Africa, as in all regions of the world, persons with disabilities face exclusion, discrimination and challenges to the enjoyment of their fundamental rights and their inclusion in development. Persons with disabilities are disproportionately likely to live in poverty and, too often across Africa, do not have equal access to education, health care, employment opportunities, housing, social protection systems, justice, and cultural expression and participation in political life. The ability of persons with disabilities to participate in society is often frustrated because physical environments, transportation and information and communications systems are not accessible.

In many cases discrimination results, at least in part, from negative attitudes and perceptions, misunderstandings, and lack of awareness. For example, the misconception that persons with disabilities are not productive members of the workforce may lead employers to discriminate against applicants with disabilities, even if they are highly qualified to perform the work. Derogatory attitudes and discrimination from external sources also impact on the self-perceptions of persons with disabilities, creating additional barriers to participation in society and development. In many communities the language used to describe or refer to an individual with a disability may serve to reinforce oppression. Very often, offensive terminology makes its way into laws and policies. Misconceptions surrounding disability may also impact on the design and implementation of development programmes in a way that presents barriers to participation, as both agents and beneficiaries, by persons with disabilities.

Heightened levels of exclusion are often faced by individuals with specific types of disabilities, such as mental health, intellectual or psychosocial disabilities, as well as by those experiencing multiple discrimination on the basis of disability coupled with other aspects of identity, including gender, age (children, youth and older persons), ethnicity, race, indigenous or minority status or other categories. For example, in some societies customary laws or attitudes toward women may prohibit them from owning property or fully participating in public life. Members of racial or ethnic minorities are often prohibited from speaking their own language or practising their religion. A person with a disability who also belongs to another marginalized group may therefore face several layers of discrimination and barriers to his or her human rights (for example, a woman with a disability who belongs to an ethnic minority).

¹ Remarks of the Secretary-General to the United Nations General Assembly's High Level Meeting on Disability and Development, 23 September 2013.

² World Health Organization and World Bank, World Report on Disability (Geneva, 2011). Estimate based on 2010 population.

At the international level, governments have worked together to try to address the situation of persons with disabilities. In 2006 these efforts resulted in the adoption of the United Nations Convention on the Rights of Persons with Disabilities (CRPD). The Convention recognizes that disability is both a development and a human rights issue, requiring different action at different levels by multiple stakeholders.

Disability is both a Development and a Human Rights Issue

Disability is a development issue because of the strong bidirectional link between poverty and disability. Disability can cause poverty by preventing full participation by persons with disabilities in the economic and social life of their communities, particularly where appropriate support and accommodation are not available. Indeed, there is a growing consensus that the most pressing issue faced globally by persons with disabilities is not their specific impairment, but rather their lack of equitable access to resources, including education, employment, health care and social and legal support systems, resulting in persons with disabilities experiencing disproportionately high levels of poverty. Poverty may also cause disability through malnutrition, poor healthcare, and precarious working or living conditions.³

The multitude of barriers that limit access by people with disabilities to education, employment, housing, health care and rehabilitation, transportation, and recreation also serve to limit their participation in developments or enjoyment of development processes that could improve their lives. Ensuring full participation by people with disabilities in the planning, design, implementation, and evaluation of development programmes is critical to their success. The Convention recognizes this, underscoring the importance of the right to participate in decision-making, including in development. It thus sees persons with disabilities as essential actors in development processes. It is also the first Convention to include a specific article focused on the role of international cooperation in supporting implementation.

Governments working at international level have also recognized that it is impossible genuinely to achieve development goals without the inclusion and integration of the rights, well-being and perspectives of persons with disabilities in development efforts at national, regional and international levels. Disabled people's organizations and their allies are working to ensure that international development becomes more inclusive of the voices and needs of persons with disabilities.

Disability is a human rights issue because, even though persons with disabilities have the same human rights as other populations, historic disadvantages and discrimination present numerous barriers in realizing these on an equal basis. Harmful attitudes, myths, prejudices and stereotypes regarding disability reinforce and perpetuate disability discrimination, and persons with disabilities, in all regions of the world, face a range of violations of their fundamental rights. These include, among many others, lack of equal access to public services and social protection, lack of access to justice and denial of the right to live independently in the community. The Convention does not create new rights for persons with disabilities. Rather, it applies human rights affirmed in earlier instruments in the context of disability, setting out measures to address more comprehensively the specific challenges facing persons with disabilities.

³ United Nations, Disability and the Millennium Development Goals: A Review of the MDG Process and Strategies for Inclusion of Disability Issues in MDG Efforts (2011); UN Enable, Mainstreaming Disability in the Development Agenda, available at: <http://www.un.org/disabilities/default.asp?id=1569>

⁴ General Assembly resolutions 63/150, 64/131 and 65/186.

2.B Defining Disability

The Convention does not explicitly define disability. However, elements of its preamble and article 1 provide guidance to clarify the Convention's application.

- ▶ "Disability" - The preamble recognizes that "disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others".
- ▶ "Persons with disabilities" - Article 1 states that "(p)ersons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others".

See Learning Activity 2.B. titled *Defining Disability*.

Several elements of these provisions need to be highlighted.

First, there is international recognition that "disability" is an evolving concept. This means that the notion of "disability" is not fixed and that it can vary, depending on the prevailing environment, from society to society.

Second, disability is not considered as a medical condition, but rather as a result of the interaction between negative attitudes or an unwelcoming environment as regards the condition of particular persons. By breaking down and removing attitudinal and environmental barriers - as opposed to treating persons with disabilities as problems to be fixed - those persons can participate as active members in society and enjoy the full range of their rights.

Third, the Convention does not restrict coverage to particular persons; it rather identifies persons with long-term physical, mental, intellectual and sensory disabilities as beneficiaries under the Convention. The reference to "includes" assures that this need not restrict the application of the Convention - that the Convention provides a "floor" and not a "ceiling" for determining who is included - and states that parties could also ensure protection to others, for example persons with short-term disabilities or who are perceived to be part of such groups.⁵

2.C Approaches to Understanding and Addressing Disability

The situation of persons with disabilities is in many ways affected by societal perceptions of disability. How disability is understood or misunderstood can have a tremendous impact on all aspects of life for persons with disabilities and at all levels, for example from the ways in which one is treated within one's community to the ways in which one is treated by policy-makers at national level in the course of their work.

It is generally considered that there are four approaches to, or models for, understanding and addressing disability. These are reflected in the following table:

Older Models	Newer Models
The charity or welfare model	The social model
The medical model	The human rights model

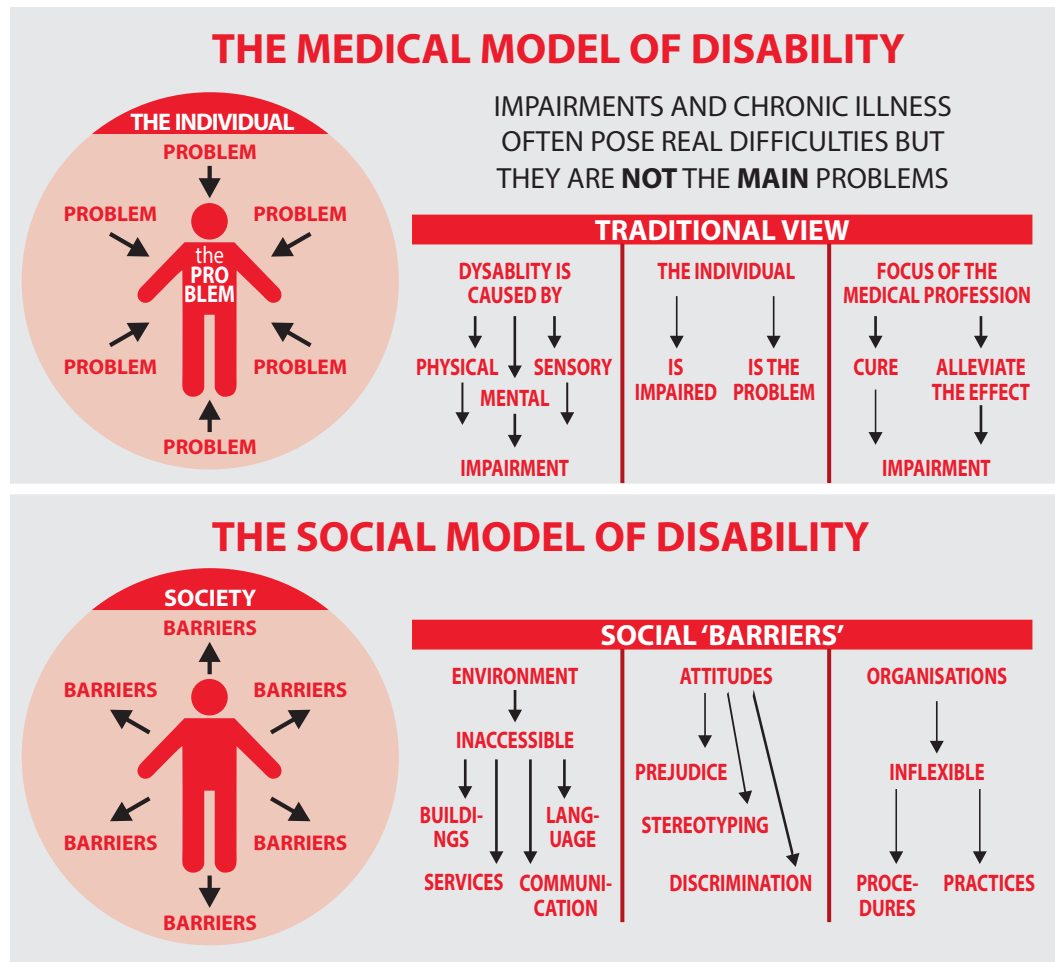
⁵ United Nations Department of Economic and Social Affairs, Frequently Asked Questions regarding the Convention on the Rights of Persons with Disabilities, available at: <http://www.un.org/disabilities/default.asp?id=151>



Approaching Disability Issues: Older Models

Historically, disability has been seen as a charity or medical issue. Under the **charity model**, disability has been seen in terms of tragedy. Persons with disabilities have been seen as helpless, to be pitied and in need of care. This perspective has viewed disability as a burdensome condition and persons with disabilities as passive, not active, members of society.

Under the **medical model**, disability has been understood as a medical problem that needs medical or rehabilitation attention in order to “fix” or “cure” an individual. This perspective has viewed a person with disabilities as having a condition that sets him or her apart from the rest of society, or as “broken” or “sick” and needing to be made “normal,” if they are to participate in society. To be sure, persons with disabilities require medical care like all people. Moreover, disability may require certification from a medical doctor. However, defining disability simply as a medical situation or in terms of charity overlooks the many barriers that prevent persons with disabilities from enjoying full participation in society and contributes to the marginalization and disempowerment of persons with disabilities.



Approaching Disability Issues: Newer Models

The charity and medical models of disability have increasingly been superseded by broader understandings of disability, reflected in the social and human rights models.

The **social model** of disability understands barriers in society as disabling – under this view, society limits the participation of persons with impairments by creating obstacles.

These may take many forms, including legal, attitudinal and physical barriers, as well as barriers to communication. For example, when a person who uses a wheelchair comes across a staircase, the result - that is, the interaction between the fact that the person is using a wheelchair and the inaccessibility of the staircase - is a disability.

Conversely, when a building has a ramp, persons who use wheelchairs can enter the building without any distinction between persons with or without disabilities. Likewise, if a teacher makes negative assumptions about a child with autism, these attitudes create a barrier to the child's education: the disability in this case is the interaction between the cognitive functioning of the child and the negative attitudes of the teacher. Another example is persons who are blind. Where a teacher writes on the chalkboard but does not read aloud, a student who is blind cannot access the information. If the teacher read aloud or had another student read material aloud, the educational experience is made accessible.

The social model of disability regards people living with disabilities as full members of society who have important contributions to make to their families and community. It recognizes that persons with disabilities should determine the course of their lives to the same extent as other members of society and it paves the way for social action by persons with disabilities challenging barriers to participation, as well as exclusionary practices.

Integrated Approaches to Disability

Some governments apply the social model with elements of the medical model, for example by utilizing the World Health Organization's International Classification of Function (ICF). The ICF views disability as the interaction between individuals with an impairment and personal and environmental factors (for example, negative attitudes and inaccessible environments). The ICF itself represents a shift towards the social model of disability, as it focuses on levels of health and functioning, rather than on impairment or disease.

Disability as a development issue can be understood through the lenses of the social and human rights model. This social model acknowledges the need to break down socially discriminatory barriers – including those relating to all aspects of development, whether economic development, poverty reduction, access to basic needs, education, democratic governance, or access to health and rehabilitation. This social model therefore helps create awareness of the many obstacles that exclude persons with disabilities from full integration into society. Once there is awareness and appreciation of these barriers, it becomes easier to identify and correct human rights problems that impact on persons with disabilities in the context of development.

Country Checkpoint

Do you think the social model is reflected in your country's approach to disability? Can you think of examples of how it is or is not being applied?

The **human rights model** of disability, as reflected in the CRPD, builds on the social model, placing it within a framework of rights and responsibilities. Under the human rights model, persons with disabilities are identified as rights holders and subjects of human rights law on an equal basis with all other persons. A person's disability is recognized and respected as an element of natural human diversity on the same basis as race or gender, and the human rights model addresses disability-specific prejudices, attitudes and other barriers to the enjoyment of human rights. The human rights model further places the responsibility on governments and society for ensuring that the



political, legal, social, and physical environments support the human rights and full inclusion and participation of persons with disabilities.

The social and human rights models of disability highlight the responsibility of countries to identify and remove barriers that inhibit human rights realization for persons with disabilities. Together the two models offer a holistic and progressive framework for promoting and protecting the rights and inclusion of the many persons with disabilities across Africa in all aspects of society and development.



Country Checkpoint

How can the social and human rights models inform strategies for disability-inclusive development in your country? For instance: How might DPOs be included in development planning or poverty reduction strategy processes? How might DPOs be included in an HIV and AIDS education programme? How will inclusion in development planning and implementation help foster human rights realization for persons with disabilities?

Language

The different models for understanding disability are also often reflected in language, which may be used in different ways to support both negative and positive attitudes to disability. This can be demonstrated, for example, in terms of words used for persons with disabilities, words that describe their disability, or words used to describe their role in the family or community. Attitudes may also be reflected in the words that persons avoid using.

Examples of affirmative phrases or negative phrases include:

Affirmative Phrases	Negative Phrases
person with an intellectual, cognitive, developmental disability	retarded; mentally defective
person who is blind, person who is visually impaired	the blind
person with a disability	the disabled; handicapped
person who is deaf	the deaf; deaf and dumb
person who is hard of hearing	suffers a hearing loss
person who has multiple sclerosis	afflicted by MS
person with cerebral palsy	CP victim
person with epilepsy, person with seizure disorder	epileptic
person who uses a wheelchair	confined or restricted to a wheelchair
person who has muscular dystrophy	stricken by MD
person with a physical disability, physically disabled	crippled; lame; deformed
unable to speak, uses synthetic speech	dumb; mute
person with psychiatric disability	crazy; nuts
person who is successful, productive	has overcome his/her disability; is courageous (when it implies the person has courage because of having a disability)

See Learning Activity 2.C. titled *Language*.



2.D Convention on the Rights of Persons with Disabilities

The Convention on the Rights of Persons with Disabilities was adopted unanimously by the United Nations General Assembly in 2006. It is the first legally-binding international human rights convention to specifically address the human rights of persons with disabilities. Persons with disabilities from around the world participated in its drafting, as representatives of government, civil society and national human rights institutions. The CRPD therefore reflects the actual experience of persons with disabilities and covers civil, political, economic, social and cultural rights. In addition the CRPD underscores that persons with disabilities very often live in poverty. As a consequence the CRPD emphasizes State obligations in the area of international cooperation. It sets forth the principle that development programmes must be inclusive of persons with disabilities and their representative organizations.

The basic structure and major components of the CRPD are set forth in the sections that follow.

Purpose of the CRPD

The purpose of the CRPD under Article 1 is to:

'promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity'

Article 1 makes clear that persons with disabilities are entitled to the same human rights as all other persons. The CRPD does not aim to create new rights; rather, it seeks to apply the existing human rights law framework to the context of disability. In this sense, it provides guidance to States on how human rights law should apply to the lives of persons with disabilities.

Disability is a Human Rights and Development Issue

The CRPD importantly expresses that disability is both a human rights and a development issue. Protecting the human rights of persons with disabilities will help facilitate development; conversely, ensuring the participation of persons with disabilities in development will facilitate human rights.

General Principles of the CRPD

The general principles of the CRPD, set out in Article 3, provide guidance for understanding and interpreting the human rights provisions in the CRPD.

CRPD Article 3: General Principles

Article 3 sets forth the following general principles of the Convention:

- Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons.
- Non-discrimination.
- Full and effective participation and inclusion in society.
- Respect for differences and acceptance of persons with disabilities as part of human diversity and humanity.
- Equality of opportunity.
- Accessibility.
- Equality between men and women.
- Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

State Parties are obliged to take into account the general principles of the CRPD in the development of national laws, policies, and practices that affect persons with disabilities. The general principles must also be applied in the interpretation of the human rights set out in the CRPD as well as in the monitoring and implementation of CRPD measures.

The following examples illustrate how the general principles should be applied in interpreting the CRPD's provisions:

International cooperation and disability inclusive development: The right of persons with disabilities to benefit from international cooperation as both participants and beneficiaries means that they must be included in development decision-making, reflecting the principles of participation and inclusion.

Community living and the principle of dignity, autonomy and choice: The right of persons with disabilities to live in the community means that housing options must reflect principles of dignity, respect, and choice, and facilitate the autonomy of persons with disabilities to live where and with whom they choose.

Access to justice and the principle of non-discrimination: State parties to the CRPD are required to undertake measures to ensure that persons with disabilities may effectively access justice systems. A failure to provide reasonable accommodation to ensure that persons with disabilities can participate in court proceedings as parties to a dispute, as witnesses, as jurors or as lawyers contravenes the principle of non-discrimination.

Education and the principle of equality of opportunity: The right of persons with disabilities to education requires that students with disabilities have equality of opportunity in accessing all levels of education.

Political participation and the principle of accessibility: persons with disabilities have the right to participate in political and public life. Measures to ensure that persons with disabilities are able to exercise their right to vote or participate in political processes must comply with the principle of accessibility.

Linguistic identity and the principle of respect for difference: the right of persons with disabilities to participate in the cultural life of their community includes the right to linguistic identity. Policies to protect the right of deaf persons to use sign language, including the adoption of sign language as a national or official language, reflect the principle of respect for differences in the context of linguistic rights.

National level monitoring and the principle of participation and inclusion: the CRPD requires State parties to undertake measures to put in place monitoring at national level.

Including persons with disabilities and their representative organizations in national-level monitoring of CRPD implementation and ensuring that their voice is heard in discussions on development of the periodic report for submission to the CRPD Committee reflects respect for the principle of participation and inclusion.

Employment and equality between men and women: the right of persons with disabilities to employment requires State parties to undertake measures that will ensure that both women and men with disabilities have equal access to employment opportunities and that discriminatory laws on the basis of sex are repealed.

Decision-making and respect for the evolving capacity of the child: The CRPD recognizes that children with disabilities are entitled to have their views heard, as are all children. This right respects the evolving capacity of children with disabilities.

General Obligations under the Convention

Following Article 3 on General Principles, Article 4 of the CRPD sets out General Obligations, clearly defining the specific actions governments must take to ensure that the rights of persons with disabilities are respected, protected, and fulfilled.

Actions to be taken by State Parties

- Adopt legislation and administrative measures to promote the human rights of persons with disabilities.
- Adopt legislative and other measures to abolish discrimination.
- Protect and promote the rights of persons with disabilities in all policies and programmes.
- Stop any practice that breaches the rights of persons with disabilities.
- Ensure that the public sector respects the rights of persons with disabilities.
- Ensure that the private sector and individuals respect the rights of persons with disabilities.
- Undertake research and development of universally-designed goods and services and accessible technology for persons with disabilities and encourage others to undertake such research.
- Provide accessible information on assistive technology to persons with disabilities.
- Promote training on the rights of the Convention for professionals and staff who work with persons with disabilities.
- Consult with and involve persons with disabilities in developing and implementing legislation and policies and in decision-making processes that concern them.

Source: UNDESA, OHCHR, IPU, Handbook for Parliamentarians: From Exclusion to Equality: realizing the rights of persons with disabilities (2007)

Many of the general obligations in the CRPD are common to other human rights conventions. However, the general obligations of State parties with respect to the rights of persons with disabilities include certain unique requirements that are not mentioned in other human rights instruments. These include such things as promoting universal design of goods and services and undertaking research on accessible technologies and assistive technologies. It is crucial to understand these principles as foundational, overarching obligations that are applicable to every other subject within the CRPD.

One objective of this comprehensive article on general obligations is to counteract the historic failure of States to truly understand their obligations to persons with disabilities as fundamental human rights obligations. States have tended to view these responsibilities as representing exceptional treatment or special social measures, not as essential requirements under human rights law. Clearly expressing them as general obligations in the Convention is an important step towards reversing this harmful way of thinking.

Progressive Realization in Relation to Economic, Social, and Cultural Rights

While some aspects of implementing the CRPD, such as prohibiting disability discrimination, are relatively cost-free, other obligations do carry cost implications. This is no different from implementation of other human rights treaty obligations and, like other human rights conventions, the CRPD applies the concept of “progressive realization” in relation to economic, social and cultural rights. Progressive realization recognises that States have different economic capacities and, accordingly, varying levels of ability to implement economic, social and cultural rights fully within a given time-frame. Progressive realization therefore allows States to take steps to the maximum possible extent in relation to their available resources. This does not mean that implementation can be delayed, however. It means that implementation can occur over time based on the available resources. In implementing economic, social, and cultural rights, such as the right to education, the right to health, or the right to work, the following must be taken into consideration:

- ▶ States must take immediate action to advance the realization of economic, social and cultural rights over time. They may therefore not do nothing on the grounds that they have no resources.
- ▶ Many obligations in the CRPD may be implemented at little or no cost and thus should be executed immediately (for example, repealing discriminatory laws).
- ▶ Where obligations do have cost implications, States must develop a plan that sets out what can be achieved immediately and what can be achieved gradually over time.
- ▶ There should be no retrogressive steps: in other words, once improvements in disability rights have been achieved, the State should maintain funding at that level and not allow it to diminish.

Country Checkpoint

What specific measures could be taken immediately, even where resources are scarce, to make progress towards implementing economic, social and cultural rights such as: (1) education; (2) employment; (3) social protection and (4) sport in your country?



Specific Rights set out in the CRPD

The body of the Convention sets out the standards – the rights and obligations – relating to persons with disabilities. While the Convention does not aim to establish new rights for persons with disabilities, it applies existing rights as appropriate to persons with disabilities, and outlines the specific responsibilities of Governments and other actors in relation to those rights.

Human Rights defined in the CRPD

Human Rights defined in the Convention are as follows:

- Article 5 – Equality before the law and non-discrimination
- Article 10 – Right to life, liberty and security of the person
- Article 12 – Equal recognition before the law and legal capacity
- Article 13 – Right of access to justice on an equal basis with others
- Article 14 – Liberty and security of the person
- Article 15 – Freedom from torture or cruel, inhuman or degrading treatment or punishment
- Article 16 – Freedom from exploitation, violence and abuse
- Article 17 – Protecting the integrity of the person
- Article 18 – Liberty of movement and nationality
- Article 19 – Living independently and being included in the community
- Article 21 – Freedom of expression and opinion, and access to information
- Article 22 – Respect for privacy
- Article 23 – Respect for home and the family
- Article 24 – Right to education
- Article 25 – Right to health
- Article 27 – Right to work and employment
- Article 28 – Right to an adequate standard of living and social protection
- Article 29 – Right to participate in political and public life
- Article 30 – Right to participate in cultural life, recreation, leisure and sport.

While all human rights are indivisible, interdependent and interrelated, certain provisions are fundamentally cross-cutting and have a broad impact on all other articles. Sometimes referred to as *articles of general application*, these articles are therefore placed at the beginning of the Convention to reinforce their importance. Article 3, General principles, and Article 4, General Obligations, both discussed above, clearly fall into this category. Additional CRPD articles of general application include:

Article 5, which sets out the fundamentally important obligation of equality and non-discrimination that applies with respect to all civil, political, economic, social and cultural rights.

Articles 6 and 7 on women and children with disabilities respectively, which relate to members of the disability community who may experience multidimensional discrimination based on disability, gender or age. The CRPD is to be understood and interpreted in keeping with the concept of gender equality and age equality.

Article 8 on awareness raising, which underscores the important role that stigma and stereotypes can play in marginalizing persons with disabilities, ultimately creating the conditions in which discrimination can flourish. Accordingly Article 8 requires

State parties to undertake measures to combat harmful stereotyping through various means of awareness raising and training, among others.

Article 9, which outlines the concept of accessibility, applicable in relation to physical environments as well as information and communication, and requires State parties to undertake measures to enhance access in all spheres.

The Convention also articulates the responsibility of States to take action to create the appropriate enabling environments to ensure that persons with disabilities can fully enjoy their human rights on an equal basis with others. Relevant CRPD articles include::

Article 9 on accessibility, which is a fundamental prerequisite for the ability of persons with disabilities to live independently and fully participate in society and development.

Article 11 on situations of risk and humanitarian emergencies, which requires State parties to take action to ensure that persons with disabilities are protected in situations of risk and humanitarian emergencies.

Article 13 on access to Justice, which is both a fundamental right and also essential for protecting all other economic, social, cultural, civil and political rights of persons with disabilities.

Article 20 on personal mobility, which requires State parties to take measures to ensure mobility to promote independence for persons with disabilities, which impacts on the ability to participate in all aspects of society and development.

Article 26 on habilitation and rehabilitation, which are required for persons with disabilities to enable maximum independence and ability.

See Learning Activity 2.D. titled *The CRPD in Practice*.



2.E Prohibiting Disability Discrimination and Ensuring Equality of Persons with Disabilities

The prohibition of discrimination on the basis of disability in the CRPD is among the most important contributions of the Treaty to international human rights law. Non-discrimination is a principle in the CRPD and is also a general obligation that applies in respect of each and every right set forth in the CRPD. State parties are required to ensure that persons with disabilities are protected against discrimination on the grounds of disability in all spheres of life and, in addition, States must ensure that persons with disabilities can enjoy true equality through provision of reasonable accommodation.

CRPD Summary: Non-discrimination

- The Preamble to the CRPD highlights the problem of disability discrimination and its resulting marginalisation of persons with disabilities.
- Article 2, Definitions, defines discrimination on the basis of disability and reasonable accommodation.
- Article 3, General principles, identifies non-discrimination as a principle of the CRPD.
- Article 4, General obligations, requires that national laws, policies, and programmes be reformed or modified to prevent disability discrimination.
- Article 5, Equality and non-discrimination, requires protection of all persons and equal and effective legal protection against discrimination on all grounds, including denial of reasonable accommodation, in all fields of public and private life.
- Article 5 also recognises the need for specific measures to promote equality for persons with disabilities.

Negative attitudes and perceptions and discrimination⁶

Discrimination is often based on mistaken ideas, prejudices and stereotypes that one group holds about another. For example, in some communities, it is assumed that a person with a mental disability or a neurological condition such as epilepsy is possessed by a demon or is cursed by God.

Negative stereotypes

The purpose of the list of commonly held negative attitudes or prejudices is to help you become aware that negative stereotypes may sometimes become “normalised” and as a result we continue to rely on stereotypes instead of questioning negative attitudes.

Prejudices hold that persons with disabilities...

- Are cursed or possessed by a demon
- Represent the bad deeds of ancestors
- Cannot/should not marry or have a family
- Should be hidden away at home
- Cannot/should not be educated
- Cannot contract HIV infection
- Cannot be self-sufficient/are excessively dependent
- Are to be pitied
- Are asexual
- Are helpless
- Have lives not worth living
- Cannot work

Measures to combat discrimination

The CRPD requires State parties to take measures to eliminate disability discrimination, whether direct or indirect. For instance, State parties must ensure that their laws do not specifically exclude persons with disabilities, such as in accessing education (direct

⁶ For further information on harmful beliefs about disability, please see the modules titled “Culture, Beliefs, and Disability.”

discrimination). States must also ensure that persons with disabilities are not indirectly excluded, such as in failing to provide schools that are physically accessible to students with physical disabilities (indirect discrimination). Accordingly, the CRPD prohibits discrimination that has the purpose or effect of denying persons with disabilities access to their human rights.

Importantly, the CRPD makes clear that the failure to provide reasonable accommodation to persons with disabilities is disability discrimination. Beyond reasonable accommodation provided for an individual with a disability, the CRPD also requires States to put in place measures that will support equality for persons with disabilities. Such measures could include for example, police training on accommodating persons with disabilities or the adoption of a national action plan to retrofit physically-inaccessible government offices.



Country Checkpoint

Are persons with disabilities protected from discrimination on the basis of disability in the legal framework in your country?

Legislative Highlights – An Example

Constitution of South Africa, Chapter 2, Bill of Rights, Section 9: Equality

1. Right to equal protection and benefit of the law.
2. Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.
3. The State may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, **disability**, religion, conscience, belief, culture, language or birth.
4. No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.
5. Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.

Equality and Freedom from Discrimination

1. All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.
2. Without prejudice to clause (1) of this article, a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, or social or economic standing, political opinion or **disability**.
3. For the purposes of this article, “discriminate” means to give different treatment to different persons attributable only or mainly to their respective descriptions by sex, race, colour, ethnic origin, tribe, birth, creed or religion, or social or economic standing, political opinion or **disability**.
4. Nothing in this article shall prevent Parliament from enacting laws that are necessary for:
 - implementing policies and programmes aimed at redressing social, economic or educational or other imbalance in society; or
 - making such provision as is required or authorised to be made under this Constitution; or
 - providing for any matter acceptable and demonstrably justified in a free and democratic society.
5. Nothing shall be taken to be inconsistent with this article which is allowed to be done under any provision of this Constitution.

2.F Monitoring and Implementation

The CRPD sets out international human rights standards for persons with disabilities which, like other core human rights conventions, require both national and international monitoring as well as implementation measures.

At national level, Article 33 establishes three types of national level monitoring, implementation, and coordination mechanisms and mandates a role for civil society, viz.:

- ▶ designation of one or more focal points within government for matters relating to implementation of the Convention;
- ▶ establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels;
- ▶ one or more independent national human rights institutions; *and*
- ▶ participation of civil society in national monitoring.

Article 33, National implementation and monitoring, requires that States set up national focal points in government to monitor implementation of the Convention's precepts and set up some form of independent monitoring mechanism, which usually takes the form of an independent national human rights institution. Article 33 also recognizes the important role of civil society, in particular persons with disabilities and their representative organizations, in national monitoring and implementation processes.

International monitoring is achieved through both the Committee on the Rights of Persons with Disabilities and a periodic meeting at a Conference of States Parties. The CRPD Committee is responsible for reviewing mandatory reports that all States Parties must submit on how they are implementing the CRPD. In addition, the Optional Protocol to the CRPD provides a means for individuals to complain when their rights are not respected and for an independent international committee of experts, the CRPD Committee, to undertake inquiries into serious rights abuses.

You can learn more about monitoring and implementation in the Module on Frameworks for Implementing and Monitoring the United Nations Convention on the Rights of Persons with Disabilities.

See Learning Activity 2.F. titled *Identifying key Concepts in Context*





3. SUMMARY & KEY LEARNING POINTS

Traditional approaches to disability have, in many ways, given rise to stigmatization and discrimination against persons with disabilities. Although this is increasingly well recognized, the charity and medical models continue to be reflected in the laws and policies of many countries in Africa and elsewhere around the globe. Legal and policy frameworks based on these older models contribute to the marginalization of persons with disabilities, for example by excluding persons with disabilities from decision-making processes and by separating persons with disabilities into segregated schools, long-term care institutions, and sheltered workshops for employment. When persons with disabilities are unable to participate fully in development, the result is social isolation and human rights violations.

The Convention moves away from traditional models of disability, and views disability as a rights issue as well as a development issue, with a focus on the participation of persons with disabilities in asserting their rights and development.

States are held accountable for implementation of the CRPD by the monitoring mechanisms and reporting requirements of the CRPD. This is the focus of this toolkit's Module on Frameworks for Implementing and Monitoring the United Nations Convention on the Rights of Persons with Disabilities.

You are encouraged to do additional reading on the subject. You will find useful resources on human rights and the CRPD at the end of this module.



4. USEFUL RESOURCES

General Resources on Human Rights and Disability

- 📖 United Nations Enable: <http://www.un.org/disabilities/>
- 📖 World Health Organization and the World Bank, World Report on Disability: http://www.who.int/disabilities/world_report/2011/en/index.html
- 📖 Committee on the Rights of Persons with Disabilities: <http://www.ohchr.org/en/hrbodies/crpd/pages/crpdindex.aspx>
- 📖 Conference of States Parties to the CRPD: <http://www.un.org/disabilities/default.asp?id=1433>

CRPD Manuals and Handbooks

- 📖 United Nations, United Nations Office of the High Commissioner for Human Rights, Inter-Parliamentary Union, From Exclusion to Equality: Realizing the Rights of Persons with Disabilities (2007): <http://www.ohchr.org/Documents/Publications/training14en.pdf>
- 📖 United Nations Office of the High Commissioner for Human Rights, *Monitoring the Convention on the Rights of Persons with Disabilities: Guidance for Human Rights Monitors* (2010): http://www.ohchr.org/Documents/Publications/Disabilities_training_17EN.pdf
- 📖 Janet E. Lord et al., Human Rights. YES! Action and Advocacy on the Rights of Persons with Disabilities, Second Edition (2012): <http://www1.umn.edu/humanrts/edumat/hreduseries/HR-YES/index.html>



5. LEARNING ACTIVITIES

Session Sheet for the Trainer – CRPD, Session 1

Technical Content 2.B.: Defining Disability

Learning Activity 2.B.: Defining Disability

Technical Content 2.C: Approaches to Understanding and Addressing Disability

Learning Activity 2.C.: Language

Session Sheet for the Trainer – CRPD, Session 2

Technical Content 2.D: Convention on the Rights of Persons with Disabilities









Learning Activity 2.D: The CRPD in Practice

Handout: The CRPD's Guiding Principles: Article 3









Technical Content 2.F: Monitoring and implementation

Learning Activity 2.F: Identifying Key Concepts in Context

Session Sheet for the Trainer – CRPD, Session 1

	Key Messages	See the summary and key learning points.
	Objectives	By the end of this session, participants will have: <ul style="list-style-type: none"> - discussed the definition of disability in an African development context; - explored how language manifests cultural attitudes to disability, in an African development context.
	Room Arrangement	Tables for small group work with 4-6 people. Computers and internet connection for research.
	Activity	30 mins – Presentation on defining disability and approaches to understanding disability. 30 mins – Group work: Learning Activity 2.B OR Learning Activity 2.C. 30 mins – Feedback and summary discussion
	Duration	90 minutes
	Notes for a Training Team	Choose one of the two activities depending on your target group. The first activity looks at the definition of disability in legal and policy frameworks, the second looks at how disability is perceived and defined in society. Participants can work in small groups or pairs. Be sure to fill in the gaps when taking feedback.
	Task Sheets	Learning Activity 2.B.: Defining Disability Learning Activity 2.C.: Language
	Handouts	N/A

Session Sheet for the Trainer – CRPD, Session 2

	Key Messages	See the summary and key learning points.
	Objectives	By the end of this session, participants will have discussed disability in an African development context.
	Room Arrangement	Tables for small group work with 4-6 people. Computers and internet connection for research.
	Activity	30 mins – Group work: Learning Activity 2.D 60 mins – Group feedback 30 mins – Summary conversation OR 30 mins – Presentation of the CRPD 45 mins – Group work: Learning Activity 2.F. 15 mins – Summary conversation
	Duration	90 minutes
	Notes for a Training Team	Choose one of the two activities depending on your aim in the session. The first option asks participants to think about the CRPD as an instrument while the second option places the CRPD in context. You may also choose to combine a presentation of the CRPD with only part of Learning Activity 2.D. Be sure to fill in the gaps when taking feedback.
	Task Sheets	Learning Activity 2.D.: The CRPD in Practice Learning Activity 2.F.: Identifying Key Concepts in Context
	Handouts	Handout: The CRPD's Guiding Principles: Article 3

Principle	Who, in your work or life environment, has supported and contributed to ensuring that these principles become reality? How are they doing it?	Who, in your work or life environment, has not yet supported and contributed to ensuring that these principle become reality but could do so? How could they do it?
a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons.		
b) Non-discrimination		
c) Full and effective participation and inclusion in society		
d) Respect for differences and acceptance of persons with disabilities as part of human diversity and humanity		
a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons.		
b) Non-discrimination		
c) Full and effective participation and inclusion in society		
d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity		



Handout: The CRPD's Guiding Principles: Article

Article 3

The principles of the present Convention shall be:

- (a) Respect for inherent dignity and individual autonomy including the freedom to make one's own choices, and independence of persons.
- (b) Non-discrimination.
- (c) Full and effective participation and inclusion in society.
- (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity.
- (e) Equality of opportunity.
- (f) Accessibility.
- (g) Equality between men and women.
- (h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

